

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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CHRISTOPHER GONZALEZ,

Case No. 24-cv-3740 (LMP/LIB)

Petitioner,

v.

**ORDER ADOPTING  
REPORT AND  
RECOMMENDATION**

B. EISCHEN,

Respondent.

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This matter is before the Court on the October 17, 2024 Report and Recommendation (“R&R”) of United States Magistrate Judge Leo I. Brisbois, *see* ECF No. 5, which recommends dismissing Petitioner Christopher Gonzalez’s (“Gonzalez”) petition for a writ of habeas corpus. No party timely objected to the R&R, *see* Fed. R. Civ. P. 72(b)(2), so the Court reviews the R&R for clear error, *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (*per curiam*).

Gonzalez contends that the Federal Bureau of Prisons wrongfully failed to award him time credits earned under the First Step Act of 2018 (“FSA”). ECF No. 1 at 1. Although the FSA provides circumstances under which time credits may be earned and applied to shorten a prisoner’s sentence, *see* 18 U.S.C. § 3632(d)(4), the FSA unambiguously excludes prisoners convicted of certain offenses from receiving time credits, *see* 18 U.S.C. § 3632(d)(4)(D).

Here, Gonzalez pleaded guilty to, and was sentenced for, a Controlled Substances Act violation under 21 U.S.C. § 841(b)(1)(B)(vi): drug offenses involving “40 grams or

more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide,” which is more commonly known as fentanyl. *See United States v. Gonzalez*, No. 20-cr-651-2 (JJT), ECF Nos. 87, 97 (N.D. Ill. 2022). Individuals convicted of violating 21 U.S.C. § 841(b)(1)(B)(vi), like Gonzalez, are unambiguously excluded from receiving time credits under the FSA. 18 U.S.C. § 3632(d)(4)(D)(lxvi). As such, the Court discerns no clear error in the R&R and adopts it in full.

### **ORDER**

Based upon all the files, records, and proceedings in this matter, **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation (ECF No. 5) is **ADOPTED IN FULL**.
2. The Complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: November 25, 2024

s/Laura M. Provinzino  
Laura M. Provinzino  
United States District Judge